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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/683,754	10/10/2003	Reinhold Schneider-Nieskens	SCHNEIDER-NIESKENS	5049
25889	7590	09/22/2005	- 3	
WILLIAM COLLARD COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576			EXAMINER ISABELLA, DAVID J	
			ART UNIT 3738	PAPER NUMBER

DATE MAILED: 09/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/683,754

Applicant(s)

SCHNEIDER-NIESKENS,
REINHOLD

Examiner

DAVID J. ISABELLA

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,7 and 11-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12 is/are allowed.
- 6) ☒ Claim(s) 1-5,7 and 11-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 14 is rejected under 35 U.S.C. 102(b) as being anticipated by Brogan (GB 2270628).

Brogan discloses a breast prosthesis comprising: a back section adapted for facing a user; and an adhesive element forming a continuous surface substantially conforming to said back section of said breast prosthesis; said adhesive element extending over a majority portion of said back section and comprising an inner body comprising a semirigid material; wherein a side of said adhesive element facing said breast prosthesis is detachably secured to said back section of said breast prosthesis and a side of said adhesive element adapted for facing a user is detachably adherable to the user.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,2,4,5,7,11, are rejected under 35 U.S.C. 103(a) as being unpatentable over Naestoft et al (5071433) in view of Jensen et al (6309500).

Naestoft, et al discloses a breast prosthesis comprising a back section adapted for facing a user 18 and an adhesive element 30 forming a continuous surface substantially conforming to said back section said breast prosthesis said adhesive element comprising an inner body lined with a material (see column 8, lines 60+), wherein a side of said adhesive element facing said breast prosthesis detachably secured to said back section adhesive of said breast prosthesis and a side said is detachably element adapted for facing a user adherable to the user. The specifics of the adhesive element, comprising an inner body of foam coated with polyurethane, is taught by Jensen, et al. To use the medical fixation pad of Jensen, et al to attach the breast prosthesis to the user would have been obvious to one with ordinary skill in the art based upon substitution of equivalent elements.

Claims 2 and 4, Naestoft et al as modified by Jensen et al.

Claim 5, see hook/loop fastener 20 of Naestoft et al.

Claim 7, the profile of the breast form of Naestoft et al is shell-shaped as broadly claimed.

Claim 11, in so far as limiting the scope of the claim, "light weight" is fully met by the breast form of Naestoft, et al.

Claim 13, see figures 1 and 2 of Jensen, et al.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Naestoft, et al (5071433) in view of Jensen, et al (6309500) as applied to claim 1 above, and further in view of Plass (GB 2202745).

Plass teaches the use of silicone as the adhesive material. Naestoft et al does not disclose any specific material suitable for use as the adhesive. In view of the teachings of Plass, to use silicone as the adhesive for providing detachability to the breast form of Naestoft, et al would have been obvious to one with ordinary skill in the art.

Allowable Subject Matter


Claim 12 is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID J ISABELLA whose telephone number is 703-308-3060. The examiner can normally be reached on MONDAY-FRIDAY.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CORRINE MCDERMOTT can be reached on 703-308-2111. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DAVID J ISABELLA
Primary Examiner
Art Unit 3738

DJI
8/18/2005